**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

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| ILLINOIS POWER AGENCY | : | |
| | : | Docket No. 15-0541 |
| Petition for Approval of the 2016 IPA | : | |
| Procurement Plan Pursuant to Section | : | |
| 16-111.5(d)(4) of the Public Utilities Act | : | |

# BRIEF ON EXCEPTIONS OF COMMONWEALTH EDISON COMPANY

Commonwealth Edison Company ("ComEd") submits this Brief on Exceptions ("BOE") relating to the Administrative Law Judges' ("ALJs") Proposed Order ("Proposed Order" or "PO") served on November 13, 2015. Pursuant to Section 200.830 of the Rules of Practice of the Illinois Commerce Commission (the "Commission" or "ICC"), 83 Ill. Admin. Code § 200.830, suggested replacement language is provided following each exception in legislative format.

ComEd appreciates the Proposed Order's careful consideration of a variety of complex issues over an extremely short period of time. In particular, the Proposed Order reflects a thoughtful and balanced treatment of issues impacted by the risks of load migration due to customer switching, and accordingly reaches conclusions on matters associated with curtailment that are in the best interests of customers, utilities, and stakeholders. As a result, ComEd proposes just five exceptions to the Proposed Order, four of which relate to clarifying certain conclusions or evidentiary matters and correcting typographical errors.

Importantly, however, ComEd's fourth exception calls attention to the statutory requirement setting a 1 megawatt ("MW") threshold for distributed generation procurement contract size, which was overlooked in the Proposed Order's conclusion. ComEd thus proposes

that the Proposed Order be revised to account for and give effect to this requirement and to adopt its uncontested proposal to set a single blended price per product size.

**EXCEPTION 1: SECTION 7.1.4. WHETHER TO REQUIRE THE SAG TO ADDRESS HOW SECTION 16-111.5B PROGRAMS CAN BE USED TO EXPAND SECTION 8-103 EE PROGRAMS THAT HAVE NOT YET BEEN APPROVED BY THE COMMISSION.**

Although ComEd concurs in the Proposed Order's conclusion that the Stakeholder Advisory Group ("SAG") address through workshops how Section 16-111.5B programs may be used to expand Section 8-103 programs that have not yet been approved, ComEd proposes that the Proposed Order's Commission Analysis and Conclusion section be revised to more fully articulate the statutory framework and legal issue confronting the parties. The Proposed Order, indeed, invites such clarification when it observes that "[t]he parties do not define what is meant by 'expansion' of Section 8-103 programs." PO at 87. Conveniently, the needed clarification can be found in the applicable law and evidentiary record.

As an initial matter, it is the governing statute – Section 16-111.5B – that establishes the "expansion" requirement as part of the larger test for determining which energy efficiency measures can be considered under an Illinois Power Agency ("IPA") procurement plan. Specifically, Section 16-111.5B limits the types of energy efficiency programs that can be proposed to "new or *expanded* cost-effective energy efficiency programs or measures *that are incremental to those included in energy efficiency and demand-response plans approved by the Commission pursuant to Section 8-103 of this Act…."* 220 ILCS 5/16-111.5B(a)(3)(C) (emphasis added); ComEd Objections at 4. In other words, programs or measures proposed under Section 16-111.5B cannot be considered in isolation or independent of the Section 8-103 portfolio. Rather, each program proposed under Section 16-111.5B must be a new program (*i.e.*,

not offered under Section 8-103) or an expanded program (*i.e.*, an enlargement of an existing program under Section 8-103). *Id*.

Based on this background, the IPA's 2016 Power Procurement Plan ("2016 Plan") requested that parties provide comment on a unique policy issue facing the IPA next year – namely, "how Section 16-111.5B programs may be used to 'expand' a portfolio of Section 8-103 programs that have not yet been approved by the Commission." 2016 Plan at 94. Put another way, when the Commission is considering the 2017 Plan next fall, it will not yet know the Section 8-103 programs to be offered during the 2017 planning year. This is because the order approving the Section 8-103 programs will not be issued until late-January 2017 (*see* 220 ILCS 5/8-103(f)), while the order approving the 2017 Plan must be issued at least one month earlier (220 ILCS 5/16-111.5(d)(3)). As a result, the approved, baseline Section 8-103 programs will not be known during the 2017 Plan proceeding, and therefore the statutory determination regarding whether a proposed Section 16-111.5B energy efficiency program is "new" or "expanded" cannot be made. ComEd Initial Comments at 5-6. The Commission, indeed, has previously acknowledged this timing issue, and concluded that a legislative change is required to resolve it. ComEd Objections at 4-5; Illinois Power Agency, ICC Docket No. 13-0546, Final Order (Dec. 18, 2013) at 146-147.

Even so, ComEd proposed that the parties address this timing issue during the SAG workshop process to determine whether anything further could be done regarding energy efficiency proposals for the 2017 Plan. The IPA, for example, has mentioned the concepts of a stipulation or conditional approval, which could be explored more fully in a proceeding where all interested energy efficiency stakeholders are participating.

ComEd accordingly supports the Proposed Order's ultimate conclusion to address this issue further in workshops, and proposes the following revisions to the last paragraph on page 87 and first full paragraph on page 88 of the Proposed Order to clarify the statutory framework and legal issue:

> ~~The parties do not define what is meant by "expansion" of Section 8-103 programs. It appears that~~ Section 16-111.5B limits what energy efficiency programs can be offered, and requires that they be "new or expanded cost-effective energy efficiency programs or measures that are incremental to those included in energy efficiency and demand-response plans approved by the Commission pursuant to Section 8-103 of this Act." As the Commission previously concluded in Docket No. 13-0546, the requirement that IPA programs be incremental to Section 8-103 programs creates challenges in those years where the Section 8-103 programs will not be known until after the approval of the procurement plan.~~but only in so far as they should not duplicate that which is provided pursuant to Section 8-103. However, that does not mean, for example, that a different program that is related to an existing Section 8-103 program, but which does not duplicate a Section 8-103 program, would contravene Section 16-111.5B.~~
>
> The Commission notes that according to the IPA, if the Commission does not require workshop discussion on this issue, such discussion will not occur. The best course of action, with regard to planning, making sure that procurement plan programs are incremental to the Section 8-103 programs ultimately approved~~duplication does not occur~~, and regarding many other topics related to this subject, would be to address these topics at workshops conducted by the SAG. Therefore, the SAG shall convene workshops to address this specific issue.

**EXCEPTION 2: SECTION 7.1.5.2. WHETHER AMEREN'S ADDER TO ITS TRC ANALYSIS FOR ADMINISTRATIVE COSTS IN EE PROGRAMS ADEQUATELY STATES WHAT ITS ACTUAL ADMINISTRATIVE COSTS ARE.**

ComEd's prior comments on this issue were limited to a new reporting requirement that Staff proposed for the first time in its Response. Specifically, Staff proposed that Ameren should include "[c]osts for IPA programs that are not incremental to any particular program" "in its

energy efficiency assessment submittal as a line item." Staff Response at 13. The purported justification for this requirement was "consider[ation] in the rate impact analysis, and so that the Commission is aware of such costs." *Id*. In its Reply, ComEd noted that it was unclear what Staff meant by "rate impact analysis," and further explained that the Commission is always made aware of, and allowed to review, the full universe of costs that utilities incur each year through the annual reconciliation dockets. ComEd Reply at 3.

While ComEd interprets the Proposed Order as rejecting Staff's untimely reporting requirement and instead directing that "[t]his topic should be thoroughly addressed and determined with specificity in workshops conducted by the SAG" (PO at 91), ComEd proposes the following two revisions to the Proposed Order to ensure a complete record and unambiguous Order – (i) additions to the "ComEd Position" section to reflect each of ComEd's arguments, and (ii) clarifications to the Commission Analysis and Conclusion section to more clearly state the Commission's workshop directive.

ComEd accordingly suggests that the "ComEd's Position" section and the second paragraph of the Commission Analysis and Conclusion section on page 91 be revised as follows:

> **d. ComEd's Position**
>
> ComEd states that Staff proposed for the first time in Staff's Response that Ameren should include costs for IPA programs that are not incremental to any particular program in its energy efficiency assessment submittal as a line item. According to ComEd, Staff claims that the information could be considered in the "rate impact analysis" and used to make the Commission aware of these costs. ComEd states, however, that it is unclear what Staff means by "rate impact analysis." Also, according to ComEd, the Commission is otherwise made aware of, and able to review, these costs every year through the utilities' annual reconciliation filings. ~~ComEd Reply at 3-4.~~ As a result, ComEd recommends that the Commission reject Staff's proposal because it is untimely (i.e., not

raised until Staff's Response) and also because it would impose additional and unnecessary reporting that is duplicative of what is already provided to the Commission in the annual reconciliation process. ComEd Reply at 3.

**e. Commission Analysis and Conclusion**

* * * *

However, it seems that even after the Commission ordered the utilities to track their administrative costs in Docket No. 14-0588, the utilities are not clear as to what administrative costs should be tracked, and, as ComEd noted, it is unclear what Staff proposes with respect to additional reporting and whether it is needed. Theseis topics should be thoroughly addressed and determined with specificity in workshops conducted by the SAG.

**EXCEPTION 3: SECTION 7.1.6.4. WHETHER TO EXCLUDE PROGRAMS THAT COMED HAS DETERMINED ARE "PERFORMANCE RISK" PROGRAMS FROM THE PLAN.**

ComEd appreciates the Proposed Order's thorough and thoughtful analysis of this critical issue, and strongly concurs in its conclusion "reject[ing] Staff's proposals to require the utilities to withhold payment and that there should be a disallowance for under-performing programs…." PO at 104. The Proposed Order's conclusion thus ensures that the flow of energy efficiency programs into the marketplace will continue uninterrupted under IPA procurement plans and that the General Assembly's intent will not be frustrated. As a result, ComEd's exceptions are limited to the two points of clarification described below.

**A. The Proposed Order Should Be Revised to Reflect ComEd's Responses to Staff's Claims Regarding Contract Scrutiny and Analysis of Vendor Bids.**

The Proposed Order should be revised to reflect the record evidence that ComEd already (i) subjects its Section 16-111.5B contracts to the same scrutiny that it applies to its Section 8-103 energy efficiency contracts and (ii) engages in an in-depth analysis of the proposals it

receives through the statutorily-mandated request-for-proposals ("RFP") process. The specific Proposed Order language with which ComEd takes exception follows:

> Staff also pointed out that the programs at issue here are not scrutinized in the same manner that the Section 8-103 EE programs vendors are scrutinized. It seems to be a simple matter to require the same level of scrutiny for Section 16-111.5B contracts as that which it imposed for Section 8-103 contracts. The utilities are directed to develop a plan to implement use of the same scrutiny for Section 16-111.5B contracts as that for Section 8-103 contracts through workshops conducted by the SAG.
>
> * * * *
>
> Additionally, Staff states that in contrast to the analysis performed by Ameren, ComEd relies solely on information supplied by vendors when conducting TRC analysis and it does not perform an independent analysis of EE programs. ComEd has given this Commission no reason for its failure to do so. ComEd is directed to conduct future TRC analyses in the manner in which Ameren performs this analysis.

PO at 103-104. As explained below, however, ComEd directly responded to Staff's claims, and the Proposed Order should be revised to reflect these responses. Even so, ComEd does not object to further discussing contract requirements and bid submission analysis in the SAG workshop process.

*First,* with respect to the issue of contract scrutiny, it may be true that Staff *alleged* that utilities scrutinize vendor contracts differently under the two statutes, but this claim does not stand uncontroverted. To the contrary, ComEd specifically rebutted this claim, which rested principally on Staff's erroneous assumption that ComEd compensates vendors differently depending on the statutory provision governing the energy efficiency program. "Contrary to Staff's vague insinuations that ComEd somehow better manages its Section 8-103 vendor contracts than its Section 16-111.5B vendor contracts, ComEd has long assisted its vendors who

implement Section 8-103 programs by advancing payment for start-up costs and progress payments." ComEd Response at 7. Indeed, the symmetrical scrutiny applied under Section 8-103 and Section 16-111.5B has further been presented to Staff and the Commission in the annual prudence reviews of ComEd's incremental energy efficiency costs, and neither Staff nor the Commission has found any disparate treatment. For example, in the most recently completed reconciliation proceeding, "Mr. Brandt [] testified that Section 16-111.5B of the Act directs that costs associated with the IPA programs be recovered through Rider EDA. To ensure that the IPA program costs were prudently incurred and reasonable in amount, *ComEd used the same cost control procedures that it applies to the rest of its energy efficiency portfolio*." *Commonwealth Edison Co*., ICC Docket No. 13-0529, Final Order (June 11, 2014) at 14 (emphasis added).

*Second,* regarding Staff's claim that ComEd does not perform an independent analysis of vendor submissions during the RFP process, here too ComEd provided evidence rebutting Staff's claim. In its Response, ComEd explained that it had constructed an inclusive RFP process that ensures RFP submissions are subjected to follow-up inquiry and analysis from not only the utility, but also from key stakeholders. Specifically, "[f]or ComEd's service territory, ComEd works with key stakeholders from the SAG to screen and review the bids received under the RFP process. Every program is reviewed by this group, and any participant may (and often does) reach out to the vendors to question or seek clarification regarding a given program's assumptions…." ComEd Response at 9. Thus, contrary to the Proposed Order's conclusion that ComEd has "failed" to conduct an independent analysis, ComEd in fact does so and partners with key stakeholders to obtain a comprehensive analysis. It is unclear, moreover, what Ameren's process is or how ComEd's process might differ from Ameren's, if at all.

The first two paragraphs of the Commission Analysis and Conclusion section on pages 102-103 of the Proposed Order should accordingly be revised as follows:

> ComEd and the IPA are of the opinion that the "pay for performance" nature of Section 16-111.5B contracts insulates ratepayers from paying for programs that cannot achieve expected savings. Staff argues that the "pay for performance" nature of these contracts is not in fact insulating ratepayers from paying for programs that do not achieve expected savings. ~~Staff also pointed out that the programs at issue here are not scrutinized in the same manner that the Section 8-103 EE programs vendors are scrutinized. It seems to be a simple matter to require the same level of scrutiny for Section 16-111.5B contracts as that which is imposed for Section 8-103 contracts. The utilities are directed to develop a plan to implement use of the same scrutiny for Section 16-111.5B contracts as that for Section 8-103 contracts through workshops conducted by the SAG.~~ However, the Commission rejects Staff's proposals to require the utilities to withhold payment and that there should be a disallowance for under-performing programs, as the workshops should address issues that will help insulate ratepayers from paying for programs that cannot achieve expected savings.
>
> Additionally, the workshops should be used to explore the level of scrutiny applied to vendor contracts under Sections 8-103 and 16-111.5B and the utilities' analysis of information supplied by vendors~~Staff states that in contrast to the analysis performed by Ameren, ComEd relies solely on information supplied by vendors~~ when conducting TRC analysis~~ and it does not perform an independent analysis of EE programs. ComEd has given this Commission no reason for its failure to do so. ComEd is directed to conduct future TRC analyses in the manner in which Ameren performs this analysis~~.

**B. ComEd's Proposed Revisions to Section 7.1.6.4 Are Explained and Supported in ComEd's Comments.**

As part of its Objections, ComEd proposed changes to Section 7.1.6.4 of the 2016 Plan to correct the Plan's misunderstanding regarding third-party contracts and cost recovery related thereto. ComEd Objections, Appendix A at 105. The Proposed Order incorrectly observes, however, that "ComEd did not present any discussion in its Objections as to why this

Commission should consider these proposed substantive changes to the Plan." PO at 103, fn. 12. Yet, as explained below, ComEd supported each of its proposed revisions through the provisions of Section 16-111.5B and specific discussion in its Objections.

*First*, ComEd proposed the addition of the following sentence: "Moreover, if the Commission approves the programs as part of the procurement plan, the utilities must execute the contracts with the winning bidders, and Section 16-111.5B provides that utilities may fully recover the costs they incur under those contracts." ComEd Objections, Appendix A at 105. This language is supported by the discussion on the bottom of page 6 and top of page 7 of ComEd's Objections, which summarizes the RFP and Commission approval process. The referenced statute, moreover, merely reiterates the applicable law, which is not disputed. 220 ILCS 5/16-111.5B(a)(6) ("An electric utility shall recover its costs incurred under this Section related to the implementation of energy efficiency programs and measures approved by the Commission in its order approving the procurement plan …")

*Second*, ComEd proposed the deletion of the following sentence: "Additionally, the IPA understands that the utilities plan to make adjustments in RFP development to help ensure that any winning bidders may not be significantly compensated prior to demonstrating achieved savings." ComEd Objections, Appendix A at 105. ComEd's Objections explained in detail that this statement is both inaccurate – as ComEd does not plan to make such adjustments – and inappropriate – as it "could effectively dismantle the third-party administered energy efficiency programs under Section 16-111.5B" and "thereby reduce energy efficiency offerings and savings contrary to the goals of the General Assembly set forth in Sections 8-103 and 16-111.5B." ComEd Objections at 6-8; ComEd Reply at 4-7.

*Third*, ComEd proposed the addition of the following three sentences:

> While the IPA understands that a winning bidder's future insolvency or bankruptcy could result in a failure to achieve energy savings and an inability to return any funds it had received from the utility to implement the program, the IPA does not believe that utilities should withhold payment from winning bidders until after the final evaluation results are known. This would require winning bidders to front all start up and implementation costs of their programs over 15 months or longer, and thereafter wait months or years for final evaluation results. This is not industry practice, and the IPA finds that it would significantly deter participation in the third party programs RFP process, substantially shrink third−party energy efficiency programs under the procurement plan, and ultimately reduce energy savings contrary to the legislature's goals as set forth in Sections 8-103 and 16-111.5B of the PUA.

ComEd Objections, Appendix A at 105. These sentences reflect the explanation ComEd laid out on pages 6 through 8 of its Objections concerning the harm that would result if Staff's approach – now disavowed by the IPA – were to be followed. ComEd Objections at 6-8; *see also* ComEd Reply at 4-7; IPA Response at 8-10.

Because ComEd's proposed revisions to Section 7.1.6.4 were fully supported in its Objections, the Proposed Order should be revised to delete footnote 12 in its entirety, as follows:

> ~~[12] In this vein, ComEd included substantive changes to the Plan in an Appendix to its Objections. (*See,* ComEd Objections, Appendix A at 105). However, ComEd did not present any discussion in its Objections as to why this Commission should consider these proposed substantive changes to the Plan. Therefore, this language, as well as Staff's response to this language, (*See,* Staff's Response at 14-15) were not considered.~~

**EXCEPTION 4: SECTION 8.4. WHETHER THE IPA SHOULD BE THE CONTRACTUAL COUNTERPARTY WITH SUPPLIERS TO THE PLANNED DG PROCUREMENT, AND NOT THE UTILITIES THEMSELVES; WHETHER THE BIDS OR THE RESULTING CONTRACTS SHOULD BE REQUIRED TO BE AT LEAST 1 MEGAWATT IN SIZE FOR THE DG PROCUREMENT.**

To narrow the issues on exceptions, ComEd will not object to the Proposed Order's conclusion rejecting the proposal to make the IPA the contractual counterparty in the distributed generation procurement. PO at 127-128. ComEd must take exception, however, to the Proposed Order's conclusion in two other respects – (i) the Proposed Order ignores the statutory threshold of 1 MW and thus incorrectly rejects a required minimum contract size of 1 MW, and (ii) the Proposed Order overlooks an uncontested proposal that contracts include a single blended price for renewable energy credit products less than 25 kilowatts ("kW") and a single blended price for renewable energy credit products 25 kW to 2 MW.

*First*, the Proposed Order errs by omitting any mention of the statutory 1 MW threshold requirement. Specifically, Section 1-75(c)(1) of the IPA Act requires that "to minimize the administrative burden on contracting entities, the Agency shall solicit the use of third-party organizations *to aggregate distributed renewable energy into groups of no less than one megawatt in installed capacity.*" 20 ILCS 3855/1-75(c)(1) (emphasis added). Moreover, these "organizations shall administer contracts with individual distributed renewable energy generation device owners." *Id*. Because the Proposed Order never addresses this statutory requirement, it wrongly concludes that it can reject the proposed 1 MW minimum based solely on a desire "to encourage development in this area…." PO at 128.

The law, however, does not grant the Commission the discretion to decide whether the 1 MW floor should be applied. While ComEd understands the Commission's goal of encouraging the development of small distributed generation devices, the General Assembly has already

determined in Section 1-75(c)(1) the balance to be struck between incenting the development of smaller distributed generation devices and minimizing utilities' administrative burdens. The Proposed Order, indeed, acknowledges one side of this scale ("Section 1-75(c)(1) requires half of the renewable resources must come from devices of less than 25 kilowatts in the named capacity" (PO at 128)), but overlooks the other side ("aggregate distributed renewable energy into groups of *no less than one megawatt*" (20 ILCS 3855/1-75(c)(1) (emphasis added)). Accordingly, the Proposed Order should be revised to fully reflect the statutory framework and impose the required 1 MW floor.

*Second*, the Proposed Order's Commission Analysis and Conclusion section should be revised to address and adopt ComEd's uncontested proposal that each renewable energy credit product size included in a contract be set at a single blended price. This proposal is designed to avoid the inequity that can result when a contract reflects only a single blended price for all product sizes, which is driven by the fact that the price for renewable energy credits less than 25 kW is likely to be greater than the price for renewable energy credits 25 kW to 2 MW. A simple example best illustrates the issue:

> [A]ssume the IPA awards a contract with a single blended price of $150 per renewable energy credit based on the expectation that 50% of the renewable energy credits delivered would be less than 25 kW at a price of $200 per renewable energy credit and 50% of the renewable energy credits delivered would be between 25 kW to 2 MW at a price of $100 per renewable energy credit. If the actual deliveries under the contract were 30% from the less than 25 kW product size and 70% from the 25 kW to 2 MW product size, then customers would be paying more to the aggregator than the effective value of the renewable energy credits received (i.e., paying an average of $150 per renewable energy credit for an average value of $130 per renewable energy credit). The reverse could happen as well, with the winning aggregator being underpaid under a single blended price for all renewable energy credit product sizes, which would leave the aggregator with too little in

> collected funds to pay the distributed generation systems that they have aggregated.

ComEd Reply at 12.

While the Environmental Law and Policy Center ("ELPC") initially interpreted ComEd's proposal as requiring minimum bids of 1 MW for each renewable energy credit product size, ComEd explained in its Reply that its 1 MW threshold applied only to the total counterparty contract size, not each individual product size. ComEd Reply at 11-12. As a result, ComEd does not believe that its single blended price proposal is contested, and proposes revisions in this vein.

The first full paragraph on page 128 of the Proposed Order should accordingly be revised as follows:

> ComEd is also asking that the Commission revise the IPA's DG procurement to indicate that contracts utilities execute with aggregators must be at least 1 megawatt in size. This proposal is consistent with, and gives effect to, Section 1-75(c)(1)'s requirement that, "to minimize the administrative burden on contracting entities, the Agency shall solicit the use of third-party organizations to aggregate distributed renewable energy into groups of no less than one megawatt in installed capacity." ComEd's proposal is therefore approved. The Commission also approves ComEd's uncontested proposal that the contracts include a single blended price for each product size category (i.e., less than 25 kW and 25 kW to 2 MW)~~According to the IPA, this would make it more difficult for smaller DG systems to be included in the process. The Commission wants to encourage development in this area, not make it more restrictive. Section 1-75(c)(1) requires half of the renewable resources must come from devices of less than 25 kilowatts in the named capacity. 20 ILCS 355/1-75(c)(1). The Commission agrees with the IPA and ELPC and rejects the proposal of ComEd~~.

**EXCEPTION 5: THE PROPOSED ORDER'S TYPOGRAPHICAL AND INADVERTENT ERRORS SHOULD BE CORRECTED.**

With respect to ComEd's final exception, it has grouped together several revisions to correct typographical or inadvertent errors. The Proposed Order should accordingly be revised as follows:

***On page 9, the sixth paragraph should be modified as follows:***

> 7.) Approve pro-rata curtailment of ComEd and/or Ameren's 2010 long-term power purchase agreements for renewable energy in the unlikely event that the updated March 2016 expected load forecast indicates that such a curtailment is necessary. The IPA contends that this forecast will form the basis for pro-rata curtailment of long term renewable contracts, assuming consensus is reached among the parties identified in Item ~~b)~~2.) above. Otherwise, the July 2015 forecast will form the basis for curtailment.

***On page 43, the seventh row of the table concerning "Low-income Kits (DCEO)" should be modified as follows:***

| | | | |
|---|---|---|---|
| Low-income Kits (DCEO) | 4,555 | $1,439,246 | 2.01 |

***On page 48, the first bullet point should be modified as follows:***

> ComEd has the following demand response programs:
>
> - Direct Load Control Program: ComEd's residential central air conditioning cycling program is a DLC program with 72,900 customers with a load reduction potential of 88 MW.

***On page 56, the first paragraph should be modified as follows:***

> In 2010, pursuant to an IPA procurement, ComEd and Ameren entered 20-~~yearLTPPAs~~year LTPPAs from a series of wind and PV facilities. In past proceedings, the IPA has sought express authorization for those contracts to be "curtailed," (a mandated reduction in the amount which need be purchased under the

contract) should the payments required under the contract exceed the expected RRB. It is of the opinion that a curtailment of these contracts could be triggered by customers switching to alternative suppliers and consequently load shifting away from the utilities, thus reducing the available budget. *Id.* at 131.

***On page 69, the first sentence under Section IV.B.1.a should be modified as follows:***

**B. Contested Matters**

**1. Plan Action Items 2 and 7: Whether any LTPPA Curtailment will be required for the 2016-2017 Delivery Year.**

***a. IPA Position***

In the Plan, the IPA has described two recommendations ~~regardingLTPPAs~~ regarding LTPPAs. The Renewables Suppliers discuss Action Plan items 2 and 7:

***On page 74, the last paragraph should be modified as follows:***

ComEd argues that the fact that a curtailment may be less likely during the present planning period does not warrant a change to a Commission-approved process that emphasizes technical expertise and an unbiased review process. The primary purpose of the revised March ~~forecast is~~forecasts are to purchase the correct amount of energy for customers, and the existing consensus process has proven very effective in accomplishing this goal. Indeed, customers may bear additional costs and risks if the updated forecast cannot be implemented due to an unwise and unnecessary change to the current efficient and unbiased process. For these reasons, the Renewables Suppliers' alternative arguments in this docket should be rejected. ComEd Response at 5.

***On page 81, the second paragraph should be modified as follows:***

> Additionally Staff states that it reviewed the list of consensus items, and it removed the items that were contradicted by later workshop consensus items. While Ameren argues that the IPA has selectively identified only a few of the 2013 consensus positions, in fact, Staff's averment that it removed the items that were contradicted in later workshops establishes that this assertion is not correct. Also, as Staff and the IPA point out, inclusion of consensus items in a Plan is useful, it provides guidelines to vendors and the utilities. The Commission therefore declines to require the IPA to amend its Plan in the manner that Ameren requests.

***On page 87, the fourth paragraph should be modified as follows:***

> ~~ComEdavers~~ComEd avers that the utilities' current Section 8-103 plans extend only through May 31, 2017, and the EE programs and measures to be offered beginning on June 1, 2017 will not be known until the Commission enters its order approving the next triennial Section 8-103 plan in early 2018. ComEd concludes that, because the Commission has already decided the issue and the General Assembly has not amended Section 16-111.5B, the 2016 Plan should be revised to conform to, rather than contradict, past Commission decisions, and encourage stakeholders to address this issue through the SAG. *Id.* at 3-5.

***On page 99, the third full paragraph should be modified as follows:***

> The IPA points out that ComEd does not object to including these programs in the 2016 Plan. It states, however, that while in the world of regulatory theory, it would be nice to insulate ratepayers from any and all risks, some businesses will inevitably fail, and pay for performance contracts are a well-established, reasonable, and pragmatic way to minimize ratepayer exposure to performance risk. Instead of throwing out these programs as advocated by Staff, the IPA believes that the approval of programs by the Commission here should provide participating utilities with firm confidence to move forward in contracting with the bidders. *Id.*

***On page 114, the last sentence of the Commission Analysis and Conclusion section should be modified as follows:***

**d. Commission Analysis and Conclusion**

* * *

Regardless, the Commission finds that the plain language of ~~the~~ Section 1-75(c)(1) requires technology-specific targets by dates certain, and the IPA's proposal to conduct a Spring SREC procurement which mimics the structure and process of the 2015 supplemental procurement and is described in the Plan at pages 127-130 is hereby adopted.

***On page 127, the first full paragraph should be modified as follows:***

ComEd claims the wisdom of consistently applying the statutory and Commission-approved 1 megawatt threshold to bids and contracts can be demonstrated through a brief example. While a number of aggregators may submit bids of 1 megawatt to the IPA, the bids may contain many projects that are unacceptable due to price or technical reasons, resulting in a contract that is merely a fraction of 1 megawatt. As a result, the IPA's proposal would lead to utilities having to execute multiple small contracts, each of which is well under 1 megawatt. This result thus does not "minimize the administrative burden on *contracting entities*", as required by the IPA Act. 20 ILCS 3855/1-75(c)(1) (emphasis added).~~Section 1-75(c)(1); indeed, it only minimizes the burden on the IPA (who is not a contracting entity) during the solicitation process. ComEd Reply at 13-14.~~

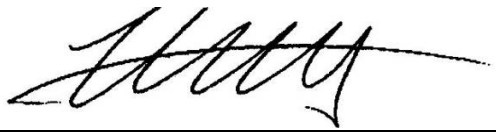
## CONCLUSION

Based on the record and the arguments made herein, ComEd respectfully requests that the Proposed Order be revised as set forth in the above exceptions.

Dated: November 20, 2015

Respectfully submitted,

Commonwealth Edison Company

By: 

One of its attorneys


Thomas S. O'Neill
Senior Vice President, Regulatory and Energy Policy and General Counsel
COMMONWEALTH EDISON COMPANY
440 South LaSalle Street, Suite 3300
Chicago, Illinois 60603
(312) 394-7205
thomas.oneill@comed.com

Thomas J. Russell
10 South Dearborn Street, 49th Floor
Chicago, Illinois 60603
(312) 394-5400
thomas.russell@exeloncorp.com

Mark R. Johnson
David M. Simon
Eimer Stahl LLP
224 South Michigan Avenue, Suite 1100
Chicago, Illinois 60604
(312) 660-7600
mjohnson@eimerstahl.com
dsimon@eimerstahl.com

Counsel for Commonwealth Edison Company